

REMARKS

I. Introduction

The Office Action mailed December 8, 2009, has been carefully considered. Applicant gratefully acknowledges the courtesy of a personal interview on March 30, 2010, where the inventor, Minh-Quan Pham, and Examiner Roberts discussed the pending rejections of record and the cited references. The Examiner agreed that the use of the cross-linking agent of Marchant in the silicone polymer of Talcott does not result in a hydrogel.

II. Status of the Claims

Claims 1-27, 29-39, and 45-121 are pending. Claims 28 and 40-44 have been cancelled. Claims 1-22, 30, 32, 33, 46-116, and 121 have been withdrawn from consideration by the Examiner as being drawn to non-elective invention or species. Claim 23 has been amended. Support for the amendment is found, *inter alia*, in the specification on page 21, line 9, to page 8, lines 6-13.

III. Summary of the Office Action

In the office action, the Examiner rejected claims 23-27, 29, 31, 34-39, 45, 117 and 118 under 35 U.S.C. § 103(a) as being obvious over Talcott (U.S. Patent No. 4,537,943) in view of Marchant (U.S. Patent Application Publication No. 2002/0068087) and further in view of Klopotek (U.S. Patent No. 6,730,123).

IV. Argument

The claims are not obvious for the following reasons:

The combination of Talcott and Marchant, as suggested by the Examiner, does not result in “hydrogel system,” as recited by present claim 23. The Examiner alleges that “[o]ne of ordinary skill in the art would recognize the advantage of using the disclosed reversible cross-linkers in the compositions of Talcott ...” Final Office Action, page 3. First, Applicant respectfully submit that Marchant does not disclose a reversible hydrogel as alleged by the Examiner. Nowhere in Marchant is the hydrogel or the crosslinker disclosed as being reversible. Applicant respectfully request that the Examiner cites to the particular section of Marchant that discloses a reversible hydrogel. In fact, the reversible system is taught by the present invention. As such, the Examiner has succumbed to improper hindsight reasoning in constructing her obviousness rejection.

Second, even if the crosslinker of Marchant could be used in the silicon polymer of Talcott, which Applicant denies, the resulting polymer cannot be considered a hydrogel. A hydrogel is well understood in the art as a polymer system containing water. *See e.g.*, Marchant, paragraph [0002]. The composition of Talcott is a silicone which is well known in the art as a hydrophobic polymer. Thus, pure silicone cannot form hydrogels because of its hydrophobicity. It may be possible to modify silicone to include hydrophilic groups to facilitate overall hydrophilicity; however, this results in a material that is opaque in water, and unsuitable as a replacement lens. Talcott clearly emphasizes this aspect by disclosing as follows:

Component (a) preferably comprises a crosslinkable, high molecular weight, organosiloxane polymer substantially free of hydrophilic groups, i.e. polar and ionic groups which could generate opacity in the lens material in the presence of water.

Talcott, Column 6, lines 58-64 (emphasis added). Thus, Talcott clearly counsel against using hydrophillic (polar and ionic) groups in his composition because it would produce an opaque material in the presence of water. In that case, the material would not be appropriate as a lens replacement. Therefore, 1) the use of the linker in the hydrophobic composition of Talcott cannot result in a hydrogel; and 2) even if one tries to make the composition of Talcott hydrophillic, it cannot properly form a hydrogel lens replacement due to opacity.

The Examiner relies on Klopotek “as a general teaching that provides motivation as to why one of ordinary skill in the art would want to use a system that may be adjusted once in the capsular bag.” Final Office Action, page 3. However, because this reference does not cure the deficiency of Talcott and Marchant as noted above, its combination with Talcott and Marchant still does not render the present invention obvious.

Therefore, for the reasons noted, the present invention is not obvious over Talcott, Marchant, and Klopotek with in the meaning of 35 U.S.C. § 103. Accordingly, Applicant respectfully requests withdrawal of the rejection.

V. Conclusion

Applicant has responded to the Final Office Action mailed December 8, 2009. All pending claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (111828.0110). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

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Respectfully submitted,

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